

AMENDED IN SENATE MARCH 29, 2012

**SENATE BILL**

**No. 1473**

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**Introduced by Senator Hancock  
(Coauthors: Senators DeSaulnier, Leno, and Pavley)**

February 24, 2012

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*An act relating to mortgages to amend Section 2924.8 of the Civil Code, and to amend Section 1161b of the Code of Civil Procedure, relating to foreclosures.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1473, as amended, Hancock. ~~Mortgages and deeds of trust: foreclosure: tenants. Foreclosure: tenants.~~

*Existing law requires a notice of sale to be posted before any power of sale can be exercised under the power of sale contained in any deed of trust or mortgage. Existing law, until January 1, 2013, requires a resident of property upon which a notice of sale has been posted to be provided a specified notice advising the resident that, among other things, if the person is renting the property, the new property owner may either give the tenant a new lease or rental agreement, or provide the tenant with a 60-day eviction notice, and that other laws may prohibit the eviction or provide the tenant with a longer notice before eviction. Existing law makes it an infraction to tear down the notice within 72 hours of posting. Existing law requires a state government entity to make translations of the notice available in 5 specified languages, for use by a mortgagee, trustee, beneficiary, or authorized agent, in order to satisfy the notice requirements.*

*This bill would revise certain portions of the notice to instead require a resident of property upon which a notice of sale has been posted to be advised that if the person is renting the property, the new property*

*owner may either give the tenant a new lease or rental agreement, or provide the tenant with a 90-day eviction notice. The bill would require the notice to advise a tenant who has a lease that the new property owner is required to honor the lease and that the tenant may have the right to stay in the property for longer than 90 days. The bill would require the Department of Consumer Affairs to make translations of the notice available, as described above. The bill would extend the operation of these provisions indefinitely.*

*By extending the operation of provisions establishing a crime, this bill would impose a state-mandated local program.*

*Existing law, until January 1, 2013, requires a tenant or subtenant in possession of a rental housing unit at the time that property is sold in foreclosure to be provided 60 days' written notice to quit before the tenant or subtenant may be removed from the property, as specified.*

*This bill would instead require a tenant or subtenant in possession of a rental housing unit under a month-to-month lease at the time that property is sold in foreclosure to be provided 90 days' written notice to quit before the tenant or subtenant may be removed from the property. The bill would provide tenants or subtenants holding possession under a residential lease with the right to possession until the end of the lease term. The bill would also extend the operation of these provisions indefinitely.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law generally regulates mortgages and deeds of trust, including establishing procedures for foreclosure in case of default. Existing law, until January 1, 2013, grants certain rights to a tenant residing in a housing unit that is sold in foreclosure.~~

~~This bill would express the intent of the Legislature to enact legislation to improve protections for tenants residing in housing units that are subject to foreclosure.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     **SECTION 1.** *Section 2924.8 of the Civil Code is amended to*  
2 *read:*

3     2924.8. (a) Upon posting a notice of sale pursuant to Section  
4 2924f, a trustee or authorized agent shall also post the following  
5 notice, in the manner required for posting the notice of sale on the  
6 property to be sold, and a mortgagee, trustee, beneficiary, or  
7 authorized agent, concurrently with the mailing of the notice of  
8 sale pursuant to Section 2924b, shall send by first-class mail in an  
9 envelope addressed to the “Resident of property subject to  
10 foreclosure sale” the following notice in English and the languages  
11 described in Section ~~1632~~: “Foreclosure 1632:  
12

13     “Foreclosure process has begun on this property, which may  
14 affect your right to continue to live in this property. Twenty days  
15 or more after the date of this notice, this property may be sold at  
16 foreclosure. If you are renting this property, the new property  
17 owner may either give you a new lease or rental agreement or  
18 provide you with a ~~60-day~~ 90-day eviction notice. ~~However, other~~  
19 ~~laws may prohibit an eviction in this circumstance or provide you~~  
20 ~~with a longer notice before eviction.~~ *If you have a lease, the new*  
21 *owner must honor the lease. You may have the right to stay in your*  
22 *home for longer than 90 days.* You may wish to contact a lawyer  
23 or your local legal aid *office* or housing counseling agency to  
24 discuss any rights you may have.”  
25

26     (b) It shall be an infraction to tear down the notice described in  
27 subdivision (a) within 72 hours of posting. Violators shall be  
28 subject to a fine of one hundred dollars (\$100).

29     (c) ~~A state government entity~~ *The Department of Consumer*  
30 *Affairs* shall make available translations of the notice described in  
31 subdivision (a) which may be used by a mortgagee, trustee,  
32 beneficiary, or authorized agent to satisfy the requirements of this  
33 section.

34     (d) This section shall only apply to loans secured by residential  
35 real property, and if the billing address for the mortgage note is  
36 different than the property address.

1 ~~(e) This section shall remain in effect only until January 1, 2013,~~  
2 ~~and as of that date is repealed, unless a later enacted statute, that~~  
3 ~~is enacted before January 1, 2013, deletes or extends that date.~~

4 *SEC. 2. Section 1161b of the Code of Civil Procedure is*  
5 *amended to read:*

6 1161b. (a) Notwithstanding Section 1161a, a tenant or  
7 subtenant in possession of a rental housing unit *under a*  
8 *month-to-month lease* at the time the property is sold in foreclosure  
9 shall be given ~~60~~ 90 days' written notice to quit pursuant to Section  
10 1162 before the tenant or subtenant may be removed from the  
11 property as prescribed in this chapter. *Tenants or subtenants*  
12 *holding possession under a residential lease shall have the right*  
13 *to possession until the end of the lease term.*

14 (b) This section shall not apply if any party to the note remains  
15 in the property as a tenant, subtenant, or occupant.

16 ~~(e) This section shall remain in effect only until January 1, 2013,~~  
17 ~~and as of that date is repealed, unless a later enacted statute, that~~  
18 ~~is enacted before January 1, 2013, deletes or extends that date.~~

19 *SEC. 3. No reimbursement is required by this act pursuant to*  
20 *Section 6 of Article XIII B of the California Constitution because*  
21 *the only costs that may be incurred by a local agency or school*  
22 *district will be incurred because this act creates a new crime or*  
23 *infraction, eliminates a crime or infraction, or changes the penalty*  
24 *for a crime or infraction, within the meaning of Section 17556 of*  
25 *the Government Code, or changes the definition of a crime within*  
26 *the meaning of Section 6 of Article XIII B of the California*  
27 *Constitution.*

28 ~~SECTION 1. It is the intent of the Legislature to enact~~  
29 ~~legislation to improve protections for tenants residing in housing~~  
30 ~~units that are subject to foreclosure.~~